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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/886,685
Filing Date: June 21, 2001
Appellant(s): SCHWAB ET AL.

John G. Posa Reg. No. 34,424
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/08/2005 appealing from the Office action mailed 06/03/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6,356,945	Shaw	03-2002
US 6,542,198	Hung et al.	04-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw et al. (6356945), (hereinafter referred to as "Shaw") in view of Hung et al. (6542198), (hereinafter referred to as "Hung").

As for claims 1,7, 10, 13, 15-16, and 18, Shaw teaches of an audio/video production system that comprises of a high-speed serial input for receiving an audio/video program and having an input format and an input frame rate (Note: high speed small computer system interface, Column 8, Lines 53-56)., a serial- to-parallel converter in communication with the input for outputting the program onto a data bus (Note: converted from serial to parallel and decode the appropriate header, Column 8, Lines 31-35); a high capacity read/write medium interfaced to the data bus for storing at least a portion of the audio/video program and a format converter interfaced to the data bus for outputting the audio/video program with an output format and output frame rate (Note: the video bus interconnects the frame memory with such components at the capture processor and the display processor (i.e. format converter), Column 7, Lines 22-28)., a format converted interfaced to the data bus for outputting the audio/video program over a high-speed serial network (Column 3, Lines 20-32),. and the equipment enables multiple users to access or manipulate the audio/video program (Note: the devices would interconnect with the multimedia communications assembly to allow the user/operator to control,

complement and utilize the functions of the electronic devices by means of the multimedia communications assembly, column 3, Lines 15-20). Wherein Shaw suggests that the input or output frame rate being 30 frames-per-second (fps); any integer multiple or fraction such as 15 fps, 10 fps, 7.5 fps, and 1 fps = 24 (1/24) fps.

However, Shaw lacks the input or output frame rate being 24 frames-per-second as claimed.

Hung teaches that frames appear as continuous motion to the human eye when displayed at a minimum rate of 24 frames/second (Hung: column 1, lines 13-15).

Therefore, taking the teachings of Shaw and Hung as a whole, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Shaw and add the specific frame rate taught by Hung in order to display the video within a maximum displayable area of the display device.

As for claims 2 and 6, the use of a high-speed serial input conforming to the EEE standard is considered as inherent and obvious to one of ordinary skill in the art because of its universal use as a high data throughput device.

As for claims 3-5, Shaw teaches of an input in an enhanced or high definition format (Column 3, Lines 40-54); wherein the program is output in an MPEG or Motion-JPEG format (Column 14, Lines 1-15); wherein the program is output in a high-speed serial form (Note: the small computer interface is readily available and capable of providing high speed interface between the internal system bus and the external host, Column 15, Lines 41-44).

As for claims 8-9, and 17, Shaw teaches of equipment that facilitates streaming video (i.e. in real time) over the Internet or other network (Column 8, Lines 66-67 and Column 9, Lines 1-

10); and wherein the equipment provides archival storage (i.e. old frames) of the audio/video program (Column 11, Lines 32-41).

As for claims 11-12, and 14, Shaw further teaches of multiple format converters, each interfaced to the data bus (Column 3, Lines 40-54); a digital effects unit for manipulation of the audio and/or video portions of the program (Column 3, Lines 15-20, and Column 14, Lines 12-16); wherein the input and output frame rates are 24, 25, or 30 frames-per-second, or any integer multiple or integer fraction thereof (Column 6, Lines 23-27).

(10) Response to Argument

The appellant argued that there is no teaching or suggestion of the prior art to combine Shaw and Hung. Shaw teaches away from the use of 24 fps, pages 3-5 of the appeal brief.

The examiner respectfully disagrees with the appellant. It is submitted that Shaw teaches that the input or output frame rate being 30 frames-per-second (fps); any integer multiple or fraction 15 fps, 10 fps, 7.5 fps, and 1 fps, this would suggest the fractional of 24 fps, 15 fps = 24 (1/1.6) fps, 10 fps = 24 (1/2.4) fps, 7.5 fps = 24(1/3.2) fps, and 1 = 24(1/24) fps; so Shaw would obviously teaches the fractional of 24 fps and further suggests that various changes may be made for the decoding system.

Hung teaches the decoder (col. 6, lines 47-60) decodes the video, where the frame rate of the video is 24 fps, 25 fps, or 30 fps for displaying, Hung suggests the described feature would be obvious to those skilled in the art that various changes and modifications may be made.

Since Shaw and Hung suggest modifications and various changes that may be made, therefore one those skilled in the art would modify the suggested teachings of Hung as 24 fps into the teachings of Shaw to provide a fraction of 24 fps such as 15 fps, 10 fps, 7.5 fps, and 1

fps suggested by Shaw. In view of the discussion above, the claimed features are unpatentable over the combination of Shaw and Hung.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The appellant argued that the Office Action has not established a prima facie case of obviousness and the rejections, page 4 of the appeal brief.

In response to appellant's argument, the examiner would like point out the following basic principle of a proper prior art analysis within 35 U.S.C. 103 (a).

Not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F.2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F.2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969)). Every reference relies to some extent on knowledge of persons skilled in the art to

complement that which is disclosed therein. In re Bode, 550 F.2d 656, 193 USPQ 12 (CCPA 1977).

(11) Evidence appendix

No evidence appendix has been submitted.

(12) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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